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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,515	09/23/2004	HUNG-CHANG TSENG		5514

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BATON DIGITAL ELECTRONIC TECH. CO., LTD.
P. O. BOX 108-00403
TAIPEI,
TAIWAN

EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/711,515

Applicant(s)

TSENG, HUNG-CHANG

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's arguments filed 5/2/2005 have been fully considered but they are not persuasive.

Claim Objections

Claims 1 and 6 are objected to because of the following informalities: In claim 1, line 5, and claim 6, line 6, should the word "jointed" be - - joined - - instead? It appears Applicant is attempting to define that the positioning panel is *joined* to a plate. The word "joint" and more specifically, in this case, "jointed" implies there the positioning panel is movably secured, specifically pivotally or universally attached, to the plate and that is not the case, since the panel is stationary. The misuse of the word "jointed" is quite a possibly a 112/2nd problem but given the benefit of the doubt that the Applicant intended to define it as "joined" to the plate, perhaps a simple claim objection is more appropriate. However, appropriate clarification and/or correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, line 7, the phrase "that is curve toward the wind shield of the car" is unclear and confusing language. First of all, the word "curve" should be - - curved - -. But most importantly, Applicant should not define such a limitation with respect to the car and more importantly in a specified direction of a part of the car such as the windshield. Neither the car nor the windshield is part of the invention. The claims should be defined with respect to the structure of the headrest.

The aforementioned problem renders the claim vague and indefinite.
Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Jost (U.S. Patent Application No. 2004/0113479 A1).

Jost teaches the structure as claimed (See Figures 1-6 and specification). Jost teaches a seat 7 with adjustable head rest suitable for a car, comprising: a head rest portion; a supporting portion 12 positioned within the head rest portion, comprising a positioning panel 12' having a groove 28 formed at a bottom thereof and a plurality of positioning holes 29 arranged in a row and a side of said positioning panel is joined to a plate; at least two connecting portions 6, each connecting portions comprising an adjusting block in soldered upper ends of connecting portions 6 having a through hole and a supporting bar attached below the adjusting block, wherein the adjusting blocks can be positioned in said groove and free end portions of said supporting bars protrude out of said head rest portion for fitting said seat and a securing element, penetrating through said through hole of each of said adjusting block respectively and secured by way of 19 in one of said positioning holes of said supporting portion respectively for

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securing said connecting portions with said supporting portions, wherein said plurality of positioning holes of the supporting portion allows adjustment of a distance between said supporting bars to fit seats of various specifications, wherein said head rest portion comprises a case stuffed with a resilient element, wherein said resilient element comprises a sponge, wherein said resilient element comprises a foam rubber, wherein said plate and said positioning panel are integrally formed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jost in view of Seizho Ohta (U.S. Patent No. 3,528,703), Barton, Jr. et al (U.S. Patent No. 3,508,788, and Zyngier (U.S. Patent No. 4,527,834).

Jost teaches the structure substantially as claimed but does not teach that the positioning panel is joined to arch shaped plated that is curved toward a frontward/forward direction of the headrest. However, Seizho Ohta, Barton, Jr. et al, and Zyngier teach a positioning panel 14, 24, 22, respectively, curved toward a frontward/forward direction of the headrest to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the headrest, as taught by Jost ,

to include a forward curved positioning panel, as taught by Seiho Ohta, Barton, Jr. et, and Zyngier, since they are alternative conventional means of reinforcing the headrest just as a straight or substantially planar positioning panel does.

Remarks

Applicant argues that the Jost reference does not teach most of the structure as defined. Jost teaches, as explained in detail above in the above rejection, a head rest portion; a supporting portion 12 positioned within the head rest portion, comprising a positioning panel 12" having a groove 28 formed at a bottom thereof and a plurality of positioning holes 29 arranged in a row and a side of said positioning panel is joined to a plate 12'; at least two connecting portions 6, each connecting portions comprising an adjusting block in soldered upper ends of connecting portions 6 having a through hole and a supporting bar attached below the adjusting block, wherein the adjusting blocks can be positioned in said groove and free end portions of said supporting bars protrude out of said head rest portion for fitting said seat and a securing element, penetrating through said through hole of each of said adjusting block respectively and secured by way of 19 in one of said positioning holes of said supporting portion respectively for securing said connecting portions with said supporting portions, wherein said plurality of positioning holes of the supporting portion allows adjustment of a distance between said supporting bars to fit seats of various specifications, wherein said head rest portion comprises a case stuffed with a resilient element, wherein said resilient element

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comprises a sponge, wherein said resilient element comprises a foam rubber, wherein said plate and said positioning panel are integrally formed.. Also, when Applicant defined an "arch shaped plate" in claim 6, the shape of the Jost plate 12' is just as much arch shaped as that of the present invention, which is why it read 102(e) over claim 6 initially (See attachment showing the arch shape). Now Applicant has added language that the plate is curved toward the windshield of the vehicle, a limitation that has also been rejected under 112/2nd paragraph. Well it appears that feature is old, as the prior art of record supports. While the Jost reference is slightly different from that of the present invention, the structure of the Jost reference still reads 102(e) over the claims as presently presented, despite being characterized as "more complex". Even if the Jost reference is "more complex", it still meets the structure as defined in the claims. Perhaps Applicant should focus on the differing structure(s) and include those details in the claims to render the claim patentably distinct over the Jost reference.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner

Application/Control Number: 10/711,515

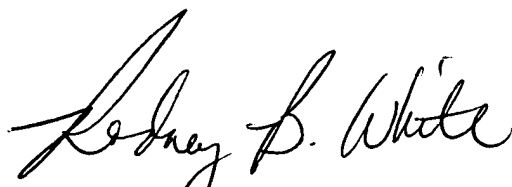
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June 29, 2005

Attachment


RODNEY B. WHITE
PRIMARY EXAMINER

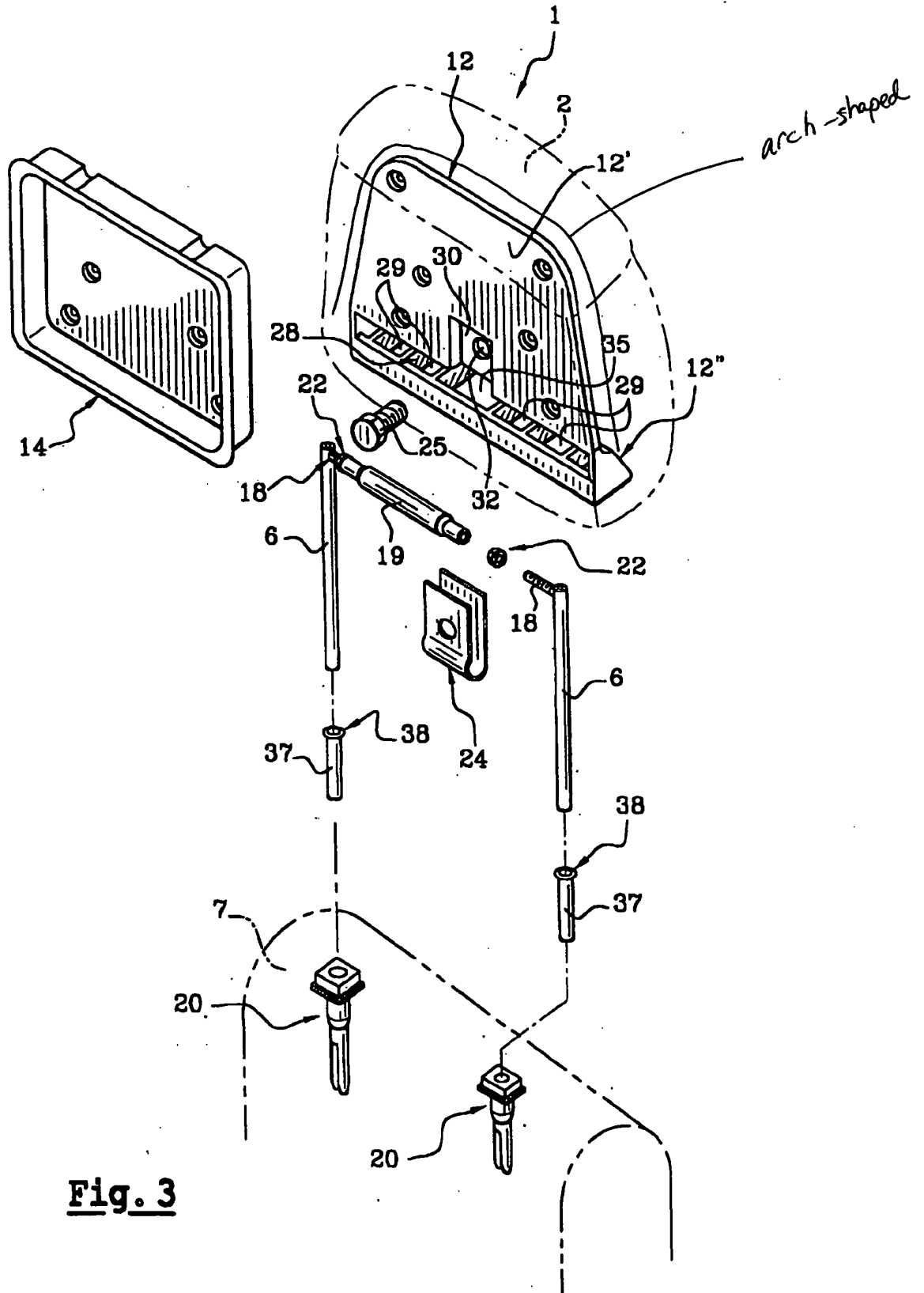


Fig. 3